

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 851 of 1998

with

CIVIL APPLICATION NO.6329 OF 1998

In

SPECIAL CIVIL APPLICATION No 4858 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and

MR.JUSTICE J.R.VORA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No

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KANTABEN V PATEL

Versus

VIMLABEN N PATEL  
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Appearance:

MR KS JHAVERI for Appellant

Mr.H.M.Mehta, senior counsel, with

MR RC JANI for Respondent No. 1

No one appears on behalf of rest of the respondents despite service.  
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CORAM : MR.JUSTICE M.R.CALLA and

MR.JUSTICE J.R.VORA

Date of decision: 28/07/98

ORAL JUDGEMENT

Learned counsel have submitted that looking to the nature of the dispute involved in the matter, the Letters Patent Appeal itself may be finally heard.

We have heard learned counsel. We find that this Letters Patent Appeal is directed against the interim order passed by the learned single Judge on 24.6.98 whereby the order passed in Special Civil Application No.4271 of 1998 was vacated and it was ordered that Special Civil Application No.4858 of 1998 and Special Civil Application No.4271 of 1998 shall be heard together. The order dated 24.6.98 impugned in this Letters Patent Appeal also shows that the learned single Judge was prepared to dispose of both the petitions but Mr.Zaveri was not ready and, therefore, the Court considered it proper to pass the impugned order.

It is clear that the appellant was functioning as an elected Sarpanch of Gram Panchayat, Jamla. The District Development Officer passed an order on 27.3.98 removing her from the post of Sarpanch. This order dated 27.3.98 was challenged by the present appellant before the Addl. Development Commissioner. Addl. Development Commissioner by his order dated 27.5.98 set aside the D.D.O's order. Now the respondent No.1, who was working as Up-Sarpanch challenged the Addl. Development Commissioner's order dated 27.5.98 before the Government by way of Revision under S.259 and the concerned authority in the Government Department stayed the Addl. Development Commissioner's order dated 27.5.98. This order dated 27.5.98 passed by the Government staying the Addl. Development Commissioner's order dated 27.5.98 was challenged by the present appellant through Special Civil Application No.4271 of 1998 wherein the order passed by the Government under signatures of the Deputy Secretary to the Government was stayed.

The respondent No.1 filed a substantive petition being Special Civil Application No.4858 of 1998 challenging the Adl. Development Commissioner's order wherein the order dated 24.6.98 impugned in the present Letters Patent Appeal was passed.

Letters Patent Appeal was preferred against this order dated 24.6.98 which was admitted on 9.7.98 after hearing the appellant and the contesting respondent No.1. Today when the matter came up before this Court, both the sides are agreeable that the present appellant may continue to function as Sarpanch during the pendency of the Special Civil Applications Nos.4271 and 4858 of 1998 and this Letters Patent Appeal may be decided in terms of

the interim order as was passed by this court on 9.7.98, but the Special Civil Applications may be finally decided as early as possible.

With the consent of both the sides this Letters Patent Appeal is allowed. The impugned order passed by the learned single Judge on 24.6.98 is hereby set aside and it is ordered that the present appellant shall continue to hold the office of the Sarpanch during the pendency of the two Special Civil Applications, as aforesaid and a mention shall be made before the learned single Judge to give priority to the Special Civil Applications Nos.4271 and 4858 of 1998 for final hearing. It goes without saying that as has been mentioned in the impugned order dated 24.6.98 when the single Judge was prepared to dispose of both the petitions on that day itself but could not be heard because of the objection of Mr.Zaveri, now there will be no difficulty in giving priority to both these Special Civil Applications with regard to their final disposal, as Mr. Zaveri clearly undertook not to object the final hearing of both these matters and accordingly the learned single Judge may consider their request for the final hearing of both these matters at the earliest possible opportunity, subject to the convenience as per the matters listed on the Board. This Letters Patent Appeal is accordingly decided in the terms as aforesaid and disposed of accordingly. Interim order dated 9.7.98 shall remain in force till the final disposal of the two Special Civil applications, as above.

By the order passed in the main Letters Patent Appeal, the interim order has been made absolute. Hence no further orders are required to be passed in this Civil Application and the Civil Application is disposed of accordingly. Rule decided accordingly.